



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 28, 1998

Ms. Leah Davis-Bates
Attorney at Law
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR98-1778

Dear Ms. Davis-Bates:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 117391.

The Texas Department of Public Safety (the "department") received an open records request for its records pertaining to a fatal automobile accident. You indicate that the department will release to the requestor a copy of the accident report. You seek to withhold all remaining records pursuant to sections 552.103 and 552.108 of the Government Code.

Section 552.108(a)(1) of the Government Code excepts from required public disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime." You state that the records at issue pertain to an on-going criminal investigation and possible prosecution. We conclude that you have met your burden of establishing that the release of the information at issue could interfere with law enforcement. The department, therefore, may withhold the information at issue at this time pursuant to section 552.108(a)(1)¹ of the Government Code, with the following caveat.

We note that although the records submitted to this office make reference to an autopsy that was performed on the deceased individual, the autopsy report was not included among the records before us. Autopsy reports are specifically made public information

¹Because we resolve your request under section 552.108, we need not address the applicability of section 552.103.

under article 49.25, section 11 of the Code of Criminal Procedure. Accordingly, if the department possesses a copy of the autopsy report, it must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB/RWP/nc

Ref.: ID# 117391

Enclosures: Submitted Documents

cc: Ms. Ann Hunter
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(w/o enclosures)